

SEP 10 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) CC Docket No. 93-193
)
1993 Annual Access Tariff Filing)

THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY
REBUTTAL TO COMMENTS

Pursuant to the Federal Communications Commission's ("Commission's") Order¹ The Southern New England Telephone Company ("SNET") submits herein this rebuttal to comments filed by various parties.² SNET responds specifically to those parties' allegations concerning SNET's Direct Case.³

In this rebuttal, SNET demonstrates that its positions regarding the issues designated for investigation are fully supported. SNET has met its burden of justifying the reasonableness of the amounts and classifications of access charge price cap index ("PCI") revisions.

¹ In the Matter of 1993 Annual Access Tariff Filings, Memorandum Opinion and Order Suspending Rates And Designating Issues For Investigation, DA 93-762, CC Docket No. 93-193, released June 23, 1993, (Order).

² Opposition filings by parties on August 24, 1993 in the above docketed matter include: Ad Hoc Telecommunications Users Committee ("Ad Hoc"), AT&T, Allnet Communications Services, Inc. ("Allnet"), and MCI Telecommunications Corp. ("MCI").

³ Direct Case of The Southern New England Telephone Company in Response to Issues Designated for Investigation, CC Docket No. 93-193, filed July 27, 1992, (Direct Case).

In this rebuttal SNET responds to the following issues:

Number 1, Implementation of SFAS-106;

Number 2, Low-End adjustments in Computing Rates of Return; and

Number 3, "g" factor.

I. SNET Has Clearly Demonstrated That the Inclusion of SFAS-106 Expenses Should Be Included as an Exogenous Cost Change.

SNET, however, will not reiterate its arguments in support of exogenous treatment for the transition benefit obligation ("TBO")-related amounts as a result of implementing SFAS-106.⁴ SNET has properly demonstrated that SFAS-106 accruals do not double-count other post-retirement benefits or "OPEB"-related costs⁵ as has been alleged. This is the first "prong" of the Commission's two "prong" test for OPEB TBO costs to be afforded exogenous treatment.⁶

SNET's case also meets the second prong of the Commission's two prong test. Indeed, SNET finds AT&T's arguments opposing LEC exogenous treatment of SFAS-106 costs disingenuous given AT&T's own actions in proposing adjustments to its price cap indices effective July 1, 1993

⁴ SNET Direct Case, CC Docket No. 92-101, filed June 1, 1992, and Rebuttal to Oppositions of the Direct Case of SNET, CC Docket No. 92-101, filed July 31, 1992.

⁵ AT&T, page 6; MCI, page 5; Allnet, page 4, Ad Hoc, page 2.

⁶ Memorandum Opinion and Order, Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employees Accounting For Postretirement Benefits Other Than Pensions," CC Docket No. 92-101, released January 22, 1993. (OPEB Order). paras. 53-55, also Direct Case, page 3, footnote 2.

that include exogenous treatment of its own TBO amounts.⁷ While SNET understands the parties' business motives in opposing exogenous treatment of OPEB costs by LECs, AT&T's own actions demonstrate that, as a practical matter, at least AT&T agrees with SNET's underlying premise that these costs are appropriately included as exogenous under the Commission's price cap rules.

Contrary to the assertion of some petitioners,⁸ SNET's reference to the Connecticut Department of Public Utility Control's ("DPUC's") recognition⁹ of the importance of retiree health benefits as an integral part of collective bargaining is relevant to this proceeding. The DPUC agreed with SNET that the "amortization of the transition benefit obligation not only does not relate to services rendered currently by employees, but in fact relates to employees already retired."¹⁰

Despite protestations of the parties that a LEC can "influence" the cost of benefits,¹¹ the Commission's failure to recognize for example, that SNET does not have unilateral

⁷ Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, CC Docket No. 93-193 Phase II, (OPEB Order Phase II), released August 10, 1993, para. 2.

⁸ MCI, page 23. MCI's logic is flawed: the issue is not whether the DPUC regulates SNET under rate of return regulation, and the FCC regulated interstate SNET services under price cap regulation, but whether another regulatory body agreed that OPEB costs under SFAS-106 are not subject to control. SNET Direct Case at page 4.

⁹ Direct Case, page 4.

¹⁰ Direct Case, pages 3 - 4.

¹¹ AT&T, page 7.

control to change benefits collectively under bargained agreements, undermines the fundamental purpose of exogenous cost treatment under price cap regulation.

Furthermore, the Commission's approach fails to address the issue that some LECs, including SNET, did not have OPEB requirements included in their initial price cap rates. To disallow exogenous treatment for these costs for SNET, while other LECs have been previously allowed to include these costs in their rates, would be discriminatory, would constitute poor public policy, and would be fundamentally unfair.

Therefore, SNET believes it has substantiated the second "prong" of the Commission's test for exogenous--that SNET lacks control of the TBO costs included in the 1993 Annual Access tariff filing.¹²

II. SNET Correctly Reflected Low-End Adjustments.

AT&T and Ad Hoc erroneously claim that the Commission tentatively concludes that add-back adjustment should only have prospective application.¹³ SNET disagrees. A reasonable reading of the Commission's current rules clearly allows for SNET's adjustment of its 1992 earnings. This

¹² Direct Case, page 5.

¹³ AT&T, page 22. Similarly, Ad Hoc incorrectly states that "add backs for LFAs are not provided for under the Commission's rules." See Ad Hoc at pages 13, 14 and 22.

adjustment was computed in direct compliance with the Commission's order which states:

The add-back adjustment should **continue** to be part of the rate of return calculations of LECs subject to price caps.¹⁴ ("emphasis added")

In its 1993 Annual Access tariff filing, SNET properly excluded its 1992 lower formula adjustment ("LFAM") revenues from 1992 earnings in compliance with the Commission's Order on Reconsideration, which defines the LFAM adjustment as a one year rate increase.¹⁵ As SNET noted in both its Reply Comments¹⁶ and Direct Case,¹⁷ failure to exclude these 1992 LFAM revenues would make SNET's 1992 rate of return an inappropriate basis for applying the Commission's sharing/LFAM earnings test for 1992 results.

MCI claims that add-back for the low end adjustment is inappropriate because it would permanently exclude revenues that are derived from low-end adjustment rate increases from inclusion in the base period earnings.¹⁸ As demonstrated in SNET's Direct Case,¹⁹ MCI's assertion misses the point.

¹⁴ Notice of Proposed Rulemaking, In the Matter of Price Cap Regulation of Local Exchange Carriers Rate of Return Sharing And Lower Formula Adjustment, CC Docket No. 93-179, released July 6, 1993, (Notice), para.15.

¹⁵ Order on Reconsideration, footnote 166.

¹⁶ In the Matter of 1993 Annual Access Tariff Filing, Reply Comments of The Southern New England Telephone Company, filed May 10, 1993, (Reply Comments), page 4.

¹⁷ Direct Case, pages 7 to 8.

¹⁸ MCI, page 29.

¹⁹ Direct Case, page 8 and Attachment C.

SNET has demonstrated that MCI's method is an "incorrect" application of the necessary add-back of LFAM.

Finally, Ad Hoc's erroneous analogy that the price cap rules are somehow the same as the rules for rate of return regulated carriers, is also flawed and inappropriate.²⁰ LFAM is fundamentally different from a rate adjustment under rate of return regulation. A rate of return carrier can increase its rates up to the authorized rate of return, and absent future changes in its rate base or revenues, is never required to make a subsequent adjustment. In contrast, a price cap carrier, with significant underearnings, can only use the LFAM to increase its rates to achieve a 10.25% rate of return--100 basis points less than the authorized rate of return level of 11.25%.²¹ Moreover, regardless of future earnings level, a price cap carrier must reverse the LFAM amount in its entirety one year later.

The Commission's intent in establishing the LFAM rate of return was to insure that earnings were not "confiscatory", and that companies could continue to attract capital and maintain service.

²⁰ Ad Hoc, page 14. Ad Hoc states that the "existing rules have not been applied to rate of return carriers to allow them to make subsequent year add back adjustments to their authorized rates of return to compensate for prior year underearnings."

²¹ LEC Price Cap Order, para 165.

III. AT&T's Proposed Recalculation of the "g" Factor is Incorrect.

SNET has acknowledged in both its Direct Case and Reply Comments, that its "g" factor calculation was not in conformance with the Commission's rules, and has provided an appropriate correction. As explained in its Reply Comments, SNET used the proper 1992 annual base period demand in its Carrier Common Line ("CCL") RTE-1 worksheet provided.²² However, SNET incorrectly used December monthly access line quantities for both the 1992 base period and base period minus 1 in its "g" factor calculation.

SNET also noted that the proper calculation of this factor resulted in only a slight change in value--from a "g" factor of .0393 to the corrected value of .0378. AT&T's comments fail to address the key issue which is to determine the proper manner to correct the "g" factor calculation.

AT&T continues to claim that it is sufficient to correct only the base year access line count despite the fact that SNET had used a December monthly figure in both the base year and base year minus 1.²³ As SNET has explained, AT&T's correction is invalid. To obtain a valid measure of growth, the measurement point must be consistent in both years. SNET explained that the purpose of the "g"

²² See SNET's Tariff Review Plan ("TRP") RTE-1, line 100 (16,757,035) + line 110 (4,715,035).

²³ AT&T's suggested "correction" changed SNET's 1992 access line count from a December total to an annual monthly average, while leaving the 1991 access line count as a December total. A December count will almost certainly be higher than an annual average, and understates the annual growth in access lines and overstates the growth in the "g" factor growth in minutes of use per access line.

factor is to provide a measure of the annual growth in minutes of use per access line. As long as the measurement point is consistent year over year, the measured growth in minutes per access line should be similar, whether calculated on a December to December monthly basis, or on a twelve month over twelve month basis. In theory, one could compare December over December, July over July, annual average over annual average, or total annual over total annual counts. Each method would provide a valid, and substantially similar, measure of access line growth. To be most consistent with the Commission's rules and the TRP, however, SNET has proposed using total annual access lines.

What is critical to the validity of the "g" factor, as explained by both SNET and Bell Atlantic, is the consistency of the measurement used in both the base year and base year minus 1. AT&T's proposed "correction" lacks this essential element of consistency, and, therefore, must be denied.

IV. Summary

For the reasons discussed above, SNET respectfully requests the Commission to reject the arguments of the opposition parties and find that SNET's access rates have been adequately supported, and that: 1) SFAS-106 TBO amounts should be granted exogenous treatment; 2) add-back is appropriate for LFAM adjustments in computing rates of

return; and 3) AT&T's proposed revision to SNET's "g" factor should be denied.

Respectfully submitted,

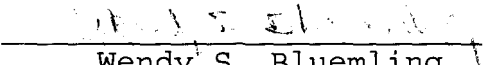
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September 10, 1993

CERTIFICATE OF SERVICE

I, Wendy Bluemling, hereby certify that SNET's Rebuttal has been filed this tenth day of September, 1993 to all parties listed on the service list below.


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